

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**July 11, 2017**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2016AP984**

**Cir. Ct. No. 2013CV102**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

---

**IN THE MATTER OF THE FORECLOSURE OF TAX LIENS UNDER SECTION 75.521,  
WISCONSIN STATUTES, BY BAYFIELD COUNTY, LIST OF TAX LIENS FOR THE  
TAXES OF 2008, AND PRIOR YEAR, IF ANY:**

**COUNTY OF BAYFIELD,**

**PETITIONER-RESPONDENT,**

**V.**

**IDA HAUTOP,**

**RESPONDENT-APPELLANT.**

---

APPEAL from an order of the circuit court for Bayfield County:  
JOHN P. ANDERSON, Judge. *Affirmed.*

Before Stark, P.J., Hruz and Seidl, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Ida Hautop appeals an order denying her WIS. STAT. § 806.07 (2015-16),<sup>1</sup> motion for relief from a tax lien foreclosure judgment entered in favor of Bayfield County. Hautop argues she is entitled to relief from the judgment because the guardian ad litem (GAL) appointed pursuant to WIS. STAT. § 75.521(12)(b) failed to fulfill his statutory duties to Hautop. For the reasons stated below, we reject Hautop’s arguments and affirm the order.

### BACKGROUND

¶2 On July 11, 2013, Bayfield County commenced a proceeding in rem to foreclose tax liens, which included a petition and list of 179 parcels with unpaid tax liens. Real estate owned by Hautop and Irvin Klink<sup>2</sup> was included on the list, and the petition identified October 31, 2013, as “the last day for redemption.” It appears the redemption deadline was ultimately extended to December 16, 2013. On November 12, 2013, the circuit court appointed a GAL pursuant to WIS. STAT. § 75.521(12)(b) “to serve for all persons known or unknown who have or may have an interest in the lands described in any list and who are or may be minors or individuals adjudicated incompetent at the date of filing such list.”

¶3 On November 21, 2013, the GAL mailed letters by first class mail to each delinquent property owner, including Hautop, informing the property owners that he was acting as guardian ad litem. The GAL further indicated that if any owner of the affected real estate was a minor or was incompetent, they should contact him “as it was [his] duty to determine whether the property could be

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

<sup>2</sup> Klink is not a party to this appeal.

redeemed before it was lost for non-payment of taxes.” The property owners were also informed that their property could be redeemed until December 16, 2013.

With regard to Hautop specifically, the GAL asserted:

The records I received indicated that [Hautop] had received the certified mail notice of the tax lien foreclosure proceeding from the Tax Lister. The letter title reports did not show that a notice of guardianship had been recorded with the Register of Deeds, as required by [WIS. STAT. §] 54.19(8), if a guardian had been appointed for her. The letter title reports did not indicate any other reason to believe that Ms. Hautop was either a minor or was incompetent. My November 21, 2013 letter to Ms. Hautop was not returned, and I did not receive a response to my letter mailed to Ms. Hautop.

¶4 In a December 16, 2013 report to the circuit court, the GAL indicated that with respect to Hautop, he had sent a letter to Hautop, but received no response, adding: “I have no reason to believe that [Hautop] is incompetent. These parcels have not been redeemed.” The circuit court entered a foreclosure judgment on December 17, 2013.

¶5 In December 2015, Hautop moved for relief from the foreclosure judgment, alleging she had recently learned of the tax lien foreclosure; she is incompetent; and she was diagnosed with dementia in 2009. The circuit court denied the motion for relief, and this appeal follows.

### **DISCUSSION**

¶6 WISCONSIN STAT. § 806.07(1) provides that a court may relieve a party from a judgment or order for eight reasons, listed in paragraphs (a) through (h). Hautop argues she is entitled to relief from the foreclosure judgment under either § 806.07(1)(d), which allows a court to grant relief where “[t]he judgment is void,” or § 806.07(1)(h), a catch-all provision allowing relief for “[a]ny other

reasons justifying relief from the operation of the judgment.” An order denying relief under § 806.07(1) will not be reversed on appeal absent an erroneous exercise of discretion. *See Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶29, 326 Wis. 2d 640, 785 N.W.2d 493.

¶7 Here, Hautop asserted the judgment was void and she was entitled to relief because the GAL did not fulfill his duties under WIS. STAT. § 75.521(12)(b). The duties and responsibilities of a guardian ad litem appointed under § 75.521(12)(b), however, apply only to minors and individuals “adjudicated incompetent.” It is undisputed that during the relevant time period, Hautop had not been adjudicated incompetent, as required under the statute, despite her earlier dementia diagnosis. Although Hautop claims the GAL failed to conduct a “diligent investigation” to determine whether Hautop was incompetent, a more diligent investigation would not have resulted in the discovery of an adjudication that did not exist.

¶8 Hautop nevertheless asserts that the GAL’s duties are owed to *all* incompetent individuals, regardless whether they are formally adjudicated as such. Given the plain language of the statute, we disagree. The subject statute governs presumptions of validity in foreclosure of tax lien actions, and provides:

This section shall apply to and be valid and effective with respect to all defendants even though one or more be infants, individuals adjudicated incompetent, absentees or nonresidents of the state of Wisconsin, provided that a guardian ad litem shall be appointed to serve for all persons known or unknown who have or may have an interest in the lands described in any list and who are or may be minors or individuals adjudicated incompetent at the date of filing such list. Such guardian ad litem may be appointed by the court without notice, and the fee for the services of the guardian ad litem as fixed by the court shall be paid by the county.

WIS. STAT. § 75.521(12)(b).

¶9 We give statutory language its common, ordinary, and accepted meaning. *See State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110. Where, as here, the statute’s meaning is plain, the inquiry typically ends. *Id.* Further, as the County notes, the legislature, in another context, recognized a distinction for parties “adjudicated incompetent or alleged to be incompetent.” *See* WIS. STAT. § 803.01(3)(a). Thus, we assume the legislature intended to provide GAL services for in rem foreclosures to only those “adjudicated” incompetent. *See Ball v. District No. 4, Area Bd. of Vocational, Technical & Adult Educ.*, 117 Wis. 2d 529, 539, 345 N.W.2d 389 (1984) (stating that “[t]he more reasonable presumption is that the legislature chose its terms carefully and precisely to express its meaning”).

¶10 We conclude that under the clear language of WIS. STAT. § 75.521(12)(b), Hautop did not fall under the GAL’s purview. Because Hautop’s claims regarding the GAL’s alleged failure to perform duties are premised on her assertion that she is entitled to representation by the GAL, her claims regarding the GAL’s statutory duties fail. We therefore conclude the circuit court properly denied Hautop’s motion for relief from the foreclosure judgment.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

